

Title 19: Insurance

Part 7, Chapter 11. Rules Regarding the Mississippi Fire Standard and Firefighter Protection Act.

Rule 11.01: Purpose

The purpose of this Regulation is to set forth the rules and regulations governing the testing, certification, marking, and sale of fire standard compliant cigarettes in the State of Mississippi.

Source: Miss. Code Ann. §45-12-1 et seq.

Rule 11.02: Authority

This Regulation is promulgated by the Commissioner of Insurance, through his power as State Fire Marshal, as required pursuant to the provision of the Mississippi Fire Safety Standard and Firefighter Protection Act ("Act") Senate Bill 2249, 2009 Regular Session, as approved by the Governor of Mississippi, as well as the provisions of Mississippi Department of Insurance Regulation No. 88-101, said regulation being the Rules of Practice and Procedure before the Mississippi Insurance Department, of which the State Fire Marshal's Office is a division.

Source: Miss. Code Ann. §45-12-1 et seq.

Rule 11.03: Scope

This Regulation shall apply to individuals and companies who sell or offer to sell cigarettes in the State of Mississippi.

This Regulation and the Act shall supersede any existing county or municipal ordinance, rule or regulation. Any such rules and regulations shall be null, void and of no effect. Further, no county or municipality shall enact any new ordinance, rule or regulation regulating companies and persons subject to licensure pursuant to this Regulation and the Act.

Source: Miss. Code Ann. §45-12-1 et seq. (Supp. 2012)

Rule 11.04: Definitions

As used in this Regulation, the following terms shall be defined as follows:

- A. "Agent" means any person authorized by the commissioner to purchase and affix stamps on packages of cigarettes.

- B. "Commissioner" means the Chairman of the State Tax Commission of the State of Mississippi, and his authorized agents and employees.
- C. "State Fire Marshal" means the Commissioner of Insurance and State Fire Marshal of the State of Mississippi, and his authorized agents and employees.
- D. "Cigarette" means:
 - i. Any roll of tobacco wrapped in paper or in any substance not containing tobacco; or
 - ii. Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette as described in subparagraph (i) above.
- E. "Manufacturer" means:
 - i. Any entity which manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced anywhere that such manufacturer intends to be sold in this state, including cigarettes intended to be sold in the United States through an importer; or
 - ii. Any entity that becomes a successor of an entity described in subparagraph (i) of this paragraph.
- F. "Quality control and quality assurance program" means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the testing. Such a program ensures that the testing repeatability remains within the required repeatability values stated in subsection (1)(f) of Section 45-12-5 for all test trials used to certify cigarettes in accordance with this chapter.
- G. "Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall ninety-five percent (95%) of the time.
- H. "Retail dealer" means any person, other than a manufacturer or wholesale dealer, engaged in selling cigarettes or tobacco products.
- I. "Sale" means any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatever or any agreement therefore. In addition to cash and credit sales, the giving of cigarettes as samples, prizes or gifts, and the exchanging of cigarettes for any consideration other than money, are considered sales.

- J. "Sell" means to sell, or to offer or agree to do the same.
- K. "Wholesale dealer" means any person, other than a manufacturer, who sells cigarettes or tobacco products to retail dealers or other persons for purposes of resale, and any person who owns, operates or maintains one or more cigarette or tobacco product vending machines in, at or upon premises owned or occupied by any other person.

Source: Miss. Code Ann. §45-12-3 (Supp. 2012)

Rule 11.05: Test method and performance standard

- A. Except as provided in subsection (7) of this section, no cigarettes may be sold or offered for sale in this state or offered for sale or sold to persons located in this state unless the cigarettes have been tested in accordance with the test method and meet the performance standard specified in this section, a written certification has been filed by the manufacturer with the State Fire Marshal in accordance with Section 45-12-7, and the cigarettes have been marked in accordance with Section 45-12-9.
 - 1. Testing of cigarettes shall be conducted in accordance with the American Society of Testing and Materials (ASTM) Standard E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes."
 - 2. Testing shall be conducted on ten (10) layers of filter paper.
 - 3. No more than twenty-five percent (25%) of the cigarettes tested in a test trial in accordance with this section shall exhibit full-length burns. Forty (40) replicate tests shall comprise a complete test trial for each cigarette tested.
 - 4. The performance standard required by this section shall only be applied to a complete test trial.
 - 5. Written certifications shall be based upon testing conducted by a laboratory that has been accredited pursuant to Standard ISO/IEC 17025 of the International Organization for Standardization (ISO), or other comparable accreditation standard required by the State Fire Marshal.
 - 6. Laboratories conducting testing in accordance with this section shall implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results. The repeatability value shall be no greater than nineteen percent (19%).

7. This section does not require additional testing if cigarettes are tested consistent with this chapter for any other purpose.
 8. Testing performed or sponsored by the State Fire Marshal to determine a cigarette's compliance with the performance standard required shall be conducted in accordance with this section.
- B. Each cigarette listed in a certification submitted pursuant to Section 45-12-7 that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in this section shall have at least two (2) nominally identical bands on the paper surrounding the tobacco column. At least one (1) complete band shall be located at least fifteen (15) millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there shall be at least two (2) bands fully located at least fifteen (15) millimeters from the lighting end and ten (10) millimeters from the filter end of the tobacco column, or ten (10) millimeters from the labeled end of the tobacco column for nonfiltered cigarettes.
- C. A manufacturer of a cigarette that the State Fire Marshal determines cannot be tested in accordance with the test method prescribed in paragraph (1) of subsection (A) shall propose a test method and performance standard for the cigarette to the State Fire Marshal. Upon approval of the proposed test method and a determination by the State Fire Marshal that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in paragraph (3) of subsection (A), the manufacturer may employ such test method and performance standard to certify such cigarette pursuant to Section 45-12-7. If the State Fire Marshal determines that another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in this section, and the State Fire Marshal finds that the officials responsible for implementing those requirements have approved the proposed alternative test method and performance standard for a particular cigarette proposed by a manufacturer as meeting the fire safety standards of that state's law or regulation under a legal provision comparable to this section, then the State Fire Marshal shall authorize that manufacturer to employ the alternative test method and performance standard to certify that cigarette for sale in this state, unless the State Fire Marshal demonstrates a reasonable basis why the alternative test should not be accepted under this section. All other applicable requirements of this section shall apply to the manufacturer.
- D. Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for a period of three (3) years, and shall make copies of these reports available to the State Fire Marshal and the Attorney General upon written request. Any manufacturer who fails to make copies of these reports available within sixty (60) days of receiving a written request shall be subject to a civil penalty not to exceed Ten

Thousand Dollars (\$ 10,000.00) for each day after the sixtieth day that the manufacturer does not make such copies available.

- E. The State Fire Marshal may promulgate a subsequent ASTM Standard Test Method for Measuring the Ignition Strength of Cigarettes upon a finding that such subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with ASTM Standard E2187-04 and the performance standard in paragraph (3) of subsection (A).
- F. The State Fire Marshal shall review the effectiveness of this section and report every three (3) years to the Legislature his findings and, if appropriate, recommendations for legislation to improve the effectiveness of this chapter. The report and legislative recommendations shall be submitted no later than June 30 following the conclusion of each three-year period.
- G. The requirements of subsection (A) shall not prohibit:
 - 1. Wholesale or retail dealers from selling their existing inventory of cigarettes on or after July 1, 2010, if the wholesale or retail dealer can establish that state tax stamps were affixed to the cigarettes prior to July 1, 2010, and the wholesale or retail dealer can establish that the inventory was purchased prior to July 1, 2010, in comparable quantity to the inventory purchased during the same period of the prior year; or
 - 2. The sale of cigarettes solely for the purpose of consumer testing. For purposes of this subsection, the term "consumer testing" means an assessment of cigarettes that is conducted by a manufacturer (or under the control and direction of a manufacturer), for the purpose of evaluating consumer acceptance of such cigarettes, utilizing only the quantity of cigarettes that is reasonably necessary for such assessment.
- H. This regulation shall be so interpreted and construed as to effectuate its general purpose to make uniform this chapter with the laws of those states that have enacted reduced cigarette ignition propensity laws as of July 1, 2010.

Source: Miss. Code Ann. §45-12-5 (Supp. 2012)

Rule 11.06: Certification and product change

- A. Each manufacturer shall submit, in a form made available by the State Fire Marshal, a written certification attesting that:

1. Each cigarette listed in the certification has been tested in accordance with Section 45-12-5; and
 2. Each cigarette listed in the certification meets the performance standard set forth in Section 45-12-5.
- B. Each cigarette listed in the certification shall be described with the following information:
1. Brand, or trade name on the package;
 2. Style, such as light or ultra light;
 3. Length in millimeters;
 4. Circumference in millimeters;
 5. Flavor, such as menthol or chocolate, if applicable;
 6. Filter or nonfilter;
 7. Package description, such as soft pack or box;
 8. Marking pursuant to Section 45-12-9;
 9. The name, address and telephone number of the laboratory, if different than the manufacturer that conducted the test; and
 10. The date that the testing occurred.
- C. The State Fire Marshal shall make certifications available to the Attorney General for purposes consistent with this chapter and the commissioner for the purposes of ensuring compliance with this section.
- D. For each brand family of cigarettes listed for certification, a manufacturer shall pay a fee of One Thousand Dollars (\$ 1,000.00) to the State Fire Marshal. The fee paid shall apply to all cigarettes within the brand family certified and shall include any new cigarette certified within the brand family during the three-year certification period.
- E. If a manufacturer has certified a cigarette pursuant to this section, and thereafter makes any change to such cigarette that is likely to alter its compliance with the reduced cigarette ignition propensity standards required by this section, that cigarette shall not be sold or offered for sale in this state until the manufacturer retests the cigarette in accordance with the testing standards set forth in Section 45-12-5 and maintains records

of that retesting as required by Section 45-12-5. Any altered cigarette which does not meet the performance standard set forth in Section 45-12-5 may not be sold in this state.

- F. Each brand family of cigarettes certified under this section shall be recertified every three (3) years from the original certification date.
1. To continue to sell a cigarette brand that has been certified under this regulation the manufacturer of that cigarette must, within three (3) years of the certification date, apply for recertification in a form made available by the State Fire Marshal, which may be accessed at <http://www.mid.ms.gov/> attesting that each cigarette listed for recertification meets the standards necessary for initial certification.
 2. For each brand family of cigarettes listed for recertification, a manufacturer shall pay a fee of One Thousand Dollars (\$ 1,000.00) to the State Fire Marshal. The fee paid shall apply to all cigarettes within the brand family certified and shall include any new cigarette certified within the brand family during the three-year recertification period.

Source: Miss. Code Ann. §45-12-7 (Rev. Supp. 2012)

Rule 11.07: Marking of cigarette packaging

- A. Cigarettes that are certified by a manufacturer in accordance with Section 45-12-7 shall be marked to indicate compliance with the requirements of Section 45-12-5. The marking shall be in eight-point type or larger and consist of the letters "FSC," which signifies Fire Standard Compliant, permanently printed, stamped, engraved or embossed on the package at or near the UPC Code.
- B. A manufacturer shall use only one (1) marking, and shall apply this marking uniformly for all packages, including, but not limited to, packs, cartons, and cases, and brands marketed by that manufacturer.
- C. Manufacturers certifying cigarettes in accordance with Section 45-12-7 shall provide a copy of the certifications to all wholesale dealers and agents to which they sell cigarettes. Wholesale dealers, agents and retail dealers shall permit the State Fire Marshal, the commissioner, the Attorney General and their employees to inspect markings of cigarette packaging marked in accordance with this section.

Source: Miss. Code Ann. §45-12-9 (Supp. 2012)

Rule 11.08: Violations and Penalties

The Commissioner shall have the ability to issue penalties due to violations of the Act or Regulation, as more specifically stated in this Section.

A. The following are violations that will result in administrative action by the Commissioner:

1. A manufacturer, wholesale dealer, agent or any other person or entity who knowingly sells or offers to sell cigarettes, other than through retail sale, in violation of Section 45-12-5, shall be subject to a civil penalty not to exceed One Hundred Dollars (\$ 100.00) for each pack of such cigarettes sold or offered for sale, provided that in no case shall the penalty against any such person or entity exceed One Hundred Thousand Dollars (\$ 100,000.00) during any thirty-day period.
2. A retail dealer who knowingly sells or offers to sell cigarettes in violation of Section 45-12-5 shall be subject to a civil penalty not to exceed One Hundred Dollars (\$ 100.00) for each pack of such cigarettes sold or offered for sale, provided that in no case shall the penalty against any retail dealer exceed Twenty-five Thousand Dollars (\$ 25,000.00) for sales or offers to sale during any thirty-day period.
3. In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to Section 45-12-7 shall be subject to a civil penalty of at least Seventy-five Thousand Dollars (\$ 75,000.00) and not to exceed Two Hundred Fifty Thousand Dollars (\$ 250,000.00) for each such false certification.
4. Any person violating any other provision in this section shall be liable for a civil penalty for a first offense not to exceed One Thousand Dollars (\$ 1,000.00), and for a subsequent offense shall be liable for a civil penalty not to exceed Five Thousand Dollars (\$ 5,000.00), for each such violation.

B. Whenever any law enforcement personnel or duly authorized representative of the State Fire Marshal shall discover any cigarettes (a) for which no certification has been filed as required by Section 45-12-7, or (b) that have not been marked as required by Section 45-12-9, such personnel is hereby authorized and empowered to seize and take possession of such cigarettes.

1. Cigarettes seized pursuant to this section shall be destroyed; provided, however, that prior to the destruction of any cigarette seized pursuant to these provisions, the true holder of the trademark rights in the cigarette brand shall be permitted to inspect the cigarette.

- i. The true holder of trademark right in the cigarette brand of the products to be destroyed shall have twenty (25) days from the date of notice to the holder of trademark right to inspect the products prior to the cigarettes being destroyed.
- C. In addition to any other remedy provided by law, the Attorney General may file an action in the circuit court of the county in which such alleged violation of this chapter occurred, including petitioning (a) for preliminary or permanent injunctive relief against any manufacturer, importer, wholesale dealer, retail dealer, agent or any other person or entity to enjoin such entity from selling, offering to sell, or affixing tax stamps to any cigarette that does not comply with the requirements of this chapter, or (b) to recover any costs or damages suffered by the state because of a violation of this chapter, including enforcement costs relating to the specific violation and attorney's fees. Each violation of this chapter or of rules or regulations adopted under this chapter constitutes a separate civil violation for which the State Fire Marshal or Attorney General may obtain relief. Upon obtaining judgment for injunctive relief under this section, the State Fire Marshal or Attorney General shall provide a copy of the judgment to all wholesale dealers and agents to which the cigarette has been sold.
- D. Notice and Hearing
 1. Before any fines are issued, the State Fire Marshal shall give the manufacturer, wholesale dealer, agent, retailer or any other person or entity in violation at least twenty-five (25) days written notice of his intention to hold a hearing on this matter. Service shall be by certified mail, return receipt, or by personal service.
 2. The hearing shall be conducted pursuant to the Department's Rules of Practice and Procedure before the Mississippi Insurance Department, Regulation 88-101.
 3. When a hearing is to be held before the State Fire Marshal, the State Fire Marshal shall give written notice thereof to the manufacturer, wholesale dealer, agent, retailer or any other person or entity allegedly in violation. The notice shall set forth the reason for the hearing, the questions or issues to be decided by the State Fire Marshal at such hearing, and the time for and place where the hearing will be held. All such notices shall be mailed to all parties whose rights may be affected by such hearing by registered or certified mail, addressed to their last known address, or via personal service.
 4. All parties whose rights may be affected at any hearing before the State Fire Marshal shall have the right to appear personally and by counsel, to cross-examine witnesses appearing against them, and to produce evidence and witnesses in their own behalf. The State Fire Marshal shall make and keep a record of each such hearing and shall provide a transcript thereof to any interested

party upon such party's written request and at the party's expense. The State Fire Marshal will provide a transcript to the requesting party AFTER receiving payment for the transcript. Testimony taken at all hearings shall be taken either stenographically or by machine.

5. If any party who is notified of a hearing as outlined herein fails to appear at such hearing, either in person or by counsel, the State Fire Marshal may make any decision and take any action he deems necessary or appropriate with respect to any issues or questions scheduled for the hearing. In accordance with the applicable Mississippi law and this Regulation, the defaulting party shall have no right to appeal such a decision of the State Fire Marshal.
6. All decisions of the State Fire Marshal with respect to the hearings provided for in this section shall be incorporated into orders of the State Fire Marshal. All such orders shall be made available during normal office hours for inspection by interested persons.
7. It shall be the duty of the sheriffs and constables of the counties of this state and of any employee of the State Fire Marshal, when so directed by the State Fire Marshal, to execute any summons, citation, or subpoena which the State Fire Marshal may cause to be issued and to make his return thereof to the State Fire Marshal. The sheriffs and constables so serving and returning same shall be paid for so doing the same fees provided for such services in circuit court. Any person who appears before the State Fire Marshal or a duly designated employee of his department in response to a summons, citation, or subpoena shall be paid the same witness fee and mileage allowance as witnesses in the circuit court. In case of failure or refusal on the part of any person to comply with any summons, citation, or subpoena issued and served as above authorized or in the case of the refusal of any person to testify or answer to any matter regarding which he may be lawfully interrogated or the refusal of any person to produce his record books and accounts relating to any matter regarding which he may be lawfully interrogated, the chancery court of any county of the State of Mississippi, or any chancellor of any such court in vacation, may, on application of the State Fire Marshal, issue an attachment for such person and compel him to comply with such summons, citation, or subpoena and to attend before the State Fire Marshal or his designated employee and to produce the documents specified in any subpoena duces tecum and give his testimony upon such matters as he may be lawfully required. Any such chancery court, or any chancellor of any such court in vacation, shall have the power to punish for contempt, as in case of disobedience of like process issued from or by any such chancery court, or by refusal to testify therein in response to such process, and such person shall be taxed with the costs of such proceedings.

8. No decision of the State Fire Marshal made as a result of a hearing under the provisions of this section shall become final with respect to any party affected and aggrieved by such decision until such party shall have exhausted or shall have had an opportunity to exhaust all of his remedies provided for by this section; provided, however, any such decision may be made final if the State Fire Marshal finds that failure to do so would be detrimental to the public interest or public welfare, but the finality of any such decision shall not prevent any party or parties affected and aggrieved thereby to appeal the same in accordance with the appellate procedure set forth in this section.
9. The following procedure shall govern in taking and perfecting appeals:
 - i. Any person who is a party to any hearing before the State Fire Marshal and who is aggrieved by any decision of the State Fire Marshal with respect to any hearing before him, unless prevented by the provisions of paragraph 5 of this section, shall have the right of appeal to the chancery court of the First Judicial District of Hinds County. If any such person is a nonresident of this state, he shall have the right of appeal to the chancery court of the first judicial district of Hinds County, Mississippi. All such appeals shall be taken and perfected within sixty (60) days from the date of the decision of the State Fire Marshal which is the subject of the appeal. The chancery court to which such appeal is taken may affirm such decision or reverse and remand the same to the State Fire Marshal for further proceedings as justice may require or dismiss such decision. All such appeals shall be taken and perfected, heard and determined, either in term time or in vacation, on the record, including a transcript of pleadings and evidence, both oral and documentary, heard and filed before the State Fire Marshal. In perfecting any appeal provided by herein, the provisions of law respecting notice to the reporter and allowance of bills of exceptions, now or hereafter in force, respecting appeals from the chancery court to the supreme court shall be applicable, provided, however, that the reporter shall transcribe his notes, taken stenographically or by machine, and file the record with the State Fire Marshal within thirty (30) days after approval of the appeal bond, unless, on application of the reporter, or of the appellant, an additional fifteen (15) days shall have been allowed by the State Fire Marshal to the reporter within which to transcribe his notes and file the transcript of the record with the State Fire Marshal.
 - ii. Upon the filing with the State Fire Marshal of a petition of appeal to the chancery court of the First Judicial District of Hinds County, it shall be the duty of the State Fire Marshal, as promptly as possible, and in any event within sixty (60) days after approval of the appeal bond, to file with the

clerk of said chancery court to which the appeal is taken, a copy of the petition for appeal and of the decision appealed from, and the original and one (1) copy of the transcript of the record of the proceedings and evidence before the State Fire Marshal. After the filing of said petition, the appeal shall be perfected by the filing of a bond in the penal sum of Five Hundred Dollars (\$500.00) with two (2) sureties or with a surety company qualified to do business in Mississippi as surety, conditioned to pay the costs of such appeal, said bond to be approved by the State Fire Marshal or by the clerk of the chancery court to which such appeal is taken.

10. Nothing in this Regulation shall prohibit informal disposition by settlement or consent order, *i.e.*, an order based upon an agreement in writing, between the parties in lieu of an administrative hearing.

Source: Miss. Code Ann. §45-12-11 (Supp. 2012)

Rule 11.09: Implementation

- A. The State Fire Marshal may promulgate rules and regulations, pursuant to Section 25-43-1 et seq., necessary to effectuate the purposes of this chapter.
- B. The commissioner in the regular course of conducting inspections of wholesale dealers, agents and retail dealers, as authorized under Section 27-69-1 et seq., may inspect such cigarettes to determine if the cigarettes are marked as required by Section 45-12-9. If the cigarettes are not marked as required, the commissioner shall notify the State Fire Marshal.

Source: Miss. Code Ann. §45-12-13 (Supp. 2012)

Rule 11.10: Inspection

To enforce the provisions of this chapter, the Attorney General, the commissioner and the State Fire Marshal, their duly authorized representatives and other law enforcement personnel, are hereby authorized to examine the books, papers, invoices and other records of any person in possession, control or occupancy of any premises where cigarettes are placed, stored, sold or offered for sale, as well as the stock of cigarettes on the premises. Every person in the possession, control or occupancy of any premises where cigarettes are placed, sold or offered for sale, is hereby directed and required to give the Attorney General, the commissioner and the

State Fire Marshal, their duly authorized representatives and other law enforcement personnel, the means, facilities and opportunity for the examinations authorized by section 45-12-15 of the Mississippi Code.

Source: Miss. Code Ann. §45-12-15 (Supp. 2012)

Rule 11.11: Cigarette Fire Safety Standard and Firefighter Protection Fund

There is hereby established in the State Treasury a special fund to be known as the "Cigarette Fire Safety Standard and Firefighter Protection Fund." The fund shall consist of all certification fees paid under Section 45-12-7 and all monies recovered as penalties under Section 45-12-11. The monies shall be deposited to the credit of the fund and shall, in addition to any other monies made available for such purpose, be used by the State Fire Marshal to defray costs incurred by the State Fire Marshal in fulfilling his duties under this chapter, and to support fire safety and prevention programs.

Source: Miss. Code Ann. §45-12-17 (Supp. 2012)

Rule 11.12: Sale outside of Mississippi

Nothing in this section shall be construed to prohibit any person or entity from manufacturing or selling cigarettes that do not meet the requirements of Section 45-12-5 if the cigarettes are, or will be, stamped for sale in another state or are packaged for sale outside the United States and that person or entity has taken reasonable steps to ensure that such cigarettes will not be sold or offered for sale to persons located in this state.

Source: Miss. Code Ann. §45-12-19 (Supp. 2012)

Rule 11.13: Preemption

This chapter shall be repealed if a federal reduced cigarette ignition propensity standard is adopted and becomes effective.

Source: Miss. Code Ann. §45-12-21 (Supp. 2012)

Rule 11.14: Local regulation

Miss. Code Ann. §45-12-23 (Rev. 2012) preempts any local law, ordinance or regulation that conflicts with any provision of said chapter or any policy of the state implemented in accordance with said chapter and, notwithstanding any other provision of law, a governmental unit of this

state may not enact or enforce an ordinance, local law or regulation conflicting with or preempted by said chapter.

Source: Miss. Code Ann. §45-12-23 (Supp. 2012)

Rule 11.15 Effective Date

This Regulation shall become effective thirty (30) days after adoption.

Source: Miss. Code Ann. §25-43-3.113, et seq. (Supp. 2012)

Title 19: Insurance

Part 7, Chapter 11. Rules Regarding the Mississippi Fire Standard and Firefighter Protection Act.

Rule ~~11~~.01: Purpose

The purpose of this Regulation is to set forth the rules and regulations governing the testing, certification, marking, and sale of fire standard compliant cigarettes in the State of Mississippi.

Source: Miss. Code Ann. §45-12-1 et seq.

Rule ~~11~~.02: Authority

This Regulation is promulgated by the Commissioner of Insurance, through his power as State Fire Marshal, as required pursuant to the provision of the Mississippi Fire Safety Standard and Firefighter Protection Act ("Act") Senate Bill 2249, 2009 Regular Session, as approved by the Governor of Mississippi, as well as the provisions of Mississippi Department of Insurance Regulation No. 88-101, said regulation being the Rules of Practice and Procedure before the Mississippi Insurance Department, of which the State Fire Marshal's Office is a division.

Source: Miss. Code Ann. §45-12-1 et seq.

Rule ~~11~~.03: Scope

This Regulation shall apply to individuals and companies who sell or offer to sell cigarettes in the State of Mississippi.

This Regulation and the Act shall supersede any existing county or municipal ordinance, rule or regulation. Any such rules and regulations shall be null, void and of no effect. Further, no county or municipality shall enact any new ordinance, rule or regulation regulating companies and persons subject to licensure pursuant to this Regulation and the Act.

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Rule ~~11~~.04: Definitions

As used in this Regulation, the following terms shall be defined as follows:

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- M. "Commissioner" means the Chairman of the State Tax Commission of the State of Mississippi, and his authorized agents and employees.
- N. "State Fire Marshal" means the Commissioner of Insurance and State Fire Marshal of the State of Mississippi, and his authorized agents and employees.
- O. "Cigarette" means:
- i. Any roll of tobacco wrapped in paper or in any substance not containing tobacco; or
 - ii. Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette as described in subparagraph (i) above.
- P. "Manufacturer" means:
- i. Any entity which manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced anywhere that such manufacturer intends to be sold in this state, including cigarettes intended to be sold in the United States through an importer; or
 - ii. Any entity that becomes a successor of an entity described in subparagraph (i) of this paragraph.
- Q. "Quality control and quality assurance program" means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the testing. Such a program ensures that the testing repeatability remains within the required repeatability values stated in subsection (1)(f) of Section 45-12-5 for all test trials used to certify cigarettes in accordance with this chapter.
- R. "Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall ninety-five percent (95%) of the time.
- S. "Retail dealer" means any person, other than a manufacturer or wholesale dealer, engaged in selling cigarettes or tobacco products.
- T. "Sale" means any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatever or any agreement therefore. In addition to cash and credit sales, the giving of cigarettes as samples, prizes or gifts, and the exchanging of cigarettes for any consideration other than money, are considered sales.

U. "Sell" means to sell, or to offer or agree to do the same.

V. "Wholesale dealer" means any person, other than a manufacturer, who sells cigarettes or tobacco products to retail dealers or other persons for purposes of resale, and any person who owns, operates or maintains one or more cigarette or tobacco product vending machines in, at or upon premises owned or occupied by any other person.

Source: *Miss. Code Ann. §45-12-3 (Supp. 2012)*

Rule 111.05: Test method and performance standard

- I. Except as provided in subsection (7) of this section, no cigarettes may be sold or offered for sale in this state or offered for sale or sold to persons located in this state unless the cigarettes have been tested in accordance with the test method and meet the performance standard specified in this section, a written certification has been filed by the manufacturer with the State Fire Marshal in accordance with Section 45-12-7, and the cigarettes have been marked in accordance with Section 45-12-9.
 1. Testing of cigarettes shall be conducted in accordance with the American Society of Testing and Materials (ASTM) Standard E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes."
 2. Testing shall be conducted on ten (10) layers of filter paper.
 3. No more than twenty-five percent (25%) of the cigarettes tested in a test trial in accordance with this section shall exhibit full-length burns. Forty (40) replicate tests shall comprise a complete test trial for each cigarette tested.
 4. The performance standard required by this section shall only be applied to a complete test trial.
 5. Written certifications shall be based upon testing conducted by a laboratory that has been accredited pursuant to Standard ISO/IEC 17025 of the International Organization for Standardization (ISO), or other comparable accreditation standard required by the State Fire Marshal.
 6. Laboratories conducting testing in accordance with this section shall implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results. The repeatability value shall be no greater than nineteen percent (19%).

7. This section does not require additional testing if cigarettes are tested consistent with this chapter for any other purpose.
 8. Testing performed or sponsored by the State Fire Marshal to determine a cigarette's compliance with the performance standard required shall be conducted in accordance with this section.
- J. Each cigarette listed in a certification submitted pursuant to Section 45-12-7 that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in this section shall have at least two (2) nominally identical bands on the paper surrounding the tobacco column. At least one (1) complete band shall be located at least fifteen (15) millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there shall be at least two (2) bands fully located at least fifteen (15) millimeters from the lighting end and ten (10) millimeters from the filter end of the tobacco column, or ten (10) millimeters from the labeled end of the tobacco column for nonfiltered cigarettes.
- K. A manufacturer of a cigarette that the State Fire Marshal determines cannot be tested in accordance with the test method prescribed in paragraph (1) of subsection (A) shall propose a test method and performance standard for the cigarette to the State Fire Marshal. Upon approval of the proposed test method and a determination by the State Fire Marshal that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in paragraph (3) of subsection (A), the manufacturer may employ such test method and performance standard to certify such cigarette pursuant to Section 45-12-7. If the State Fire Marshal determines that another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in this section, and the State Fire Marshal finds that the officials responsible for implementing those requirements have approved the proposed alternative test method and performance standard for a particular cigarette proposed by a manufacturer as meeting the fire safety standards of that state's law or regulation under a legal provision comparable to this section, then the State Fire Marshal shall authorize that manufacturer to employ the alternative test method and performance standard to certify that cigarette for sale in this state, unless the State Fire Marshal demonstrates a reasonable basis why the alternative test should not be accepted under this section. All other applicable requirements of this section shall apply to the manufacturer.
- L. Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for a period of three (3) years, and shall make copies of these reports available to the State Fire Marshal and the Attorney General upon written request. Any manufacturer who fails to make copies of these reports available within sixty (60) days of receiving a written request shall be subject to a civil penalty not to exceed Ten

Thousand Dollars (\$ 10,000.00) for each day after the sixtieth day that the manufacturer does not make such copies available.

- M. The State Fire Marshal may promulgate a subsequent ASTM Standard Test Method for Measuring the Ignition Strength of Cigarettes upon a finding that such subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with ASTM Standard E2187-04 and the performance standard in paragraph (3) of subsection (A).
- N. The State Fire Marshal shall review the effectiveness of this section and report every three (3) years to the Legislature his findings and, if appropriate, recommendations for legislation to improve the effectiveness of this chapter. The report and legislative recommendations shall be submitted no later than June 30 following the conclusion of each three-year period.
- O. The requirements of subsection (A) shall not prohibit:
 - 3. Wholesale or retail dealers from selling their existing inventory of cigarettes on or after July 1, 2010, if the wholesale or retail dealer can establish that state tax stamps were affixed to the cigarettes prior to July 1, 2010, and the wholesale or retail dealer can establish that the inventory was purchased prior to July 1, 2010, in comparable quantity to the inventory purchased during the same period of the prior year; or
 - 4. The sale of cigarettes solely for the purpose of consumer testing. For purposes of this subsection, the term "consumer testing" means an assessment of cigarettes that is conducted by a manufacturer (or under the control and direction of a manufacturer), for the purpose of evaluating consumer acceptance of such cigarettes, utilizing only the quantity of cigarettes that is reasonably necessary for such assessment.
- P. This regulation shall be so interpreted and construed as to effectuate its general purpose to make uniform this chapter with the laws of those states that have enacted reduced cigarette ignition propensity laws as of July 1, 2010.

Source: *Miss. Code Ann. §45-12-5 (Supp. 2012)*

| **Rule 11.06:** Certification and product change

- G. Each manufacturer shall submit, in a form made available by the State Fire Marshal, a written certification attesting that:

1. Each cigarette listed in the certification has been tested in accordance with Section 45-12-5; and
 2. Each cigarette listed in the certification meets the performance standard set forth in Section 45-12-5.
- H. Each cigarette listed in the certification shall be described with the following information:
1. Brand, or trade name on the package;
 2. Style, such as light or ultra light;
 3. Length in millimeters;
 4. Circumference in millimeters;
 5. Flavor, such as menthol or chocolate, if applicable;
 6. Filter or nonfilter;
 7. Package description, such as soft pack or box;
 8. Marking pursuant to Section 45-12-9;
 9. The name, address and telephone number of the laboratory, if different than the manufacturer that conducted the test; and
 10. The date that the testing occurred.
- I. The State Fire Marshal shall make certifications available to the Attorney General for purposes consistent with this chapter and the commissioner for the purposes of ensuring compliance with this section.
- J. For each brand family of cigarettes listed for certification, a manufacturer shall pay a fee of One Thousand Dollars (\$ 1,000.00) to the State Fire Marshal. The fee paid shall apply to all cigarettes within the brand family certified and shall include any new cigarette certified within the brand family during the three-year certification period.
- K. If a manufacturer has certified a cigarette pursuant to this section, and thereafter makes any change to such cigarette that is likely to alter its compliance with the reduced cigarette ignition propensity standards required by this section, that cigarette shall not be sold or offered for sale in this state until the manufacturer retests the cigarette in accordance with the testing standards set forth in Section 45-12-5 and maintains records

of that retesting as required by Section 45-12-5. Any altered cigarette which does not meet the performance standard set forth in Section 45-12-5 may not be sold in this state.

- L. Each brand family of cigarettes certified under this section shall be recertified every three (3) years from the original certification date.
 - 1. To continue to sell a cigarette brand that has been certified under this regulation the manufacturer of that cigarette must, within three (3) years of the certification date, apply for recertification in a form made available by the State Fire Marshal, which may be accessed at <http://www.mid.ms.gov/> attesting that each cigarette listed for recertification meets the standards necessary for initial certification.
 - 2. For each brand family of cigarettes listed for recertification, a manufacturer shall pay a fee of One Thousand Dollars (\$ 1,000.00) to the State Fire Marshal. The fee paid shall apply to all cigarettes within the brand family certified and shall include any new cigarette certified within the brand family during the three-year recertification period.

Source: Miss. Code Ann. §45-12-7 (Rev. Supp. 2012)

| **Rule ~~11~~.07:** Marking of cigarette packaging

- D. Cigarettes that are certified by a manufacturer in accordance with Section 45-12-7 shall be marked to indicate compliance with the requirements of Section 45-12-5. The marking shall be in eight-point type or larger and consist of the letters "FSC," which signifies Fire Standard Compliant, permanently printed, stamped, engraved or embossed on the package at or near the UPC Code.
- E. A manufacturer shall use only one (1) marking, and shall apply this marking uniformly for all packages, including, but not limited to, packs, cartons, and cases, and brands marketed by that manufacturer.
- F. Manufacturers certifying cigarettes in accordance with Section 45-12-7 shall provide a copy of the certifications to all wholesale dealers and agents to which they sell cigarettes. Wholesale dealers, agents and retail dealers shall permit the State Fire Marshal, the commissioner, the Attorney General and their employees to inspect markings of cigarette packaging marked in accordance with this section.

Source: Miss. Code Ann. §45-12-9 (Supp. 2012)

| **Rule ~~11~~.08:** Violations and Penalties

The Commissioner shall have the ability to issue penalties due to violations of the Act or Regulation, as more specifically stated in this Section.

E. The following are violations that will result in administrative action by the Commissioner:

1. A manufacturer, wholesale dealer, agent or any other person or entity who knowingly sells or offers to sell cigarettes, other than through retail sale, in violation of Section 45-12-5, shall be subject to a civil penalty not to exceed One Hundred Dollars (\$ 100.00) for each pack of such cigarettes sold or offered for sale, provided that in no case shall the penalty against any such person or entity exceed One Hundred Thousand Dollars (\$ 100,000.00) during any thirty-day period.
2. A retail dealer who knowingly sells or offers to sell cigarettes in violation of Section 45-12-5 shall be subject to a civil penalty not to exceed One Hundred Dollars (\$ 100.00) for each pack of such cigarettes sold or offered for sale, provided that in no case shall the penalty against any retail dealer exceed Twenty-five Thousand Dollars (\$ 25,000.00) for sales or offers to sale during any thirty-day period.
3. In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to Section 45-12-7 shall be subject to a civil penalty of at least Seventy-five Thousand Dollars (\$ 75,000.00) and not to exceed Two Hundred Fifty Thousand Dollars (\$ 250,000.00) for each such false certification.
4. Any person violating any other provision in this section shall be liable for a civil penalty for a first offense not to exceed One Thousand Dollars (\$ 1,000.00), and for a subsequent offense shall be liable for a civil penalty not to exceed Five Thousand Dollars (\$ 5,000.00), for each such violation.

F. Whenever any law enforcement personnel or duly authorized representative of the State Fire Marshal shall discover any cigarettes (a) for which no certification has been filed as required by Section 45-12-7, or (b) that have not been marked as required by Section 45-12-9, such personnel is hereby authorized and empowered to seize and take possession of such cigarettes.

1. Cigarettes seized pursuant to this section shall be destroyed; provided, however, that prior to the destruction of any cigarette seized pursuant to these provisions, the true holder of the trademark rights in the cigarette brand shall be permitted to inspect the cigarette.

- i. The true holder of trademark right in the cigarette brand of the products to be destroyed shall have twenty (25) days from the date of notice to the holder of trademark right to inspect the products prior to the cigarettes being destroyed.
- G. In addition to any other remedy provided by law, the Attorney General may file an action in the circuit court of the county in which such alleged violation of this chapter occurred, including petitioning (a) for preliminary or permanent injunctive relief against any manufacturer, importer, wholesale dealer, retail dealer, agent or any other person or entity to enjoin such entity from selling, offering to sell, or affixing tax stamps to any cigarette that does not comply with the requirements of this chapter, or (b) to recover any costs or damages suffered by the state because of a violation of this chapter, including enforcement costs relating to the specific violation and attorney's fees. Each violation of this chapter or of rules or regulations adopted under this chapter constitutes a separate civil violation for which the State Fire Marshal or Attorney General may obtain relief. Upon obtaining judgment for injunctive relief under this section, the State Fire Marshal or Attorney General shall provide a copy of the judgment to all wholesale dealers and agents to which the cigarette has been sold.

H. Notice and Hearing

1. Before any fines are issued, the State Fire Marshal shall give the manufacturer, wholesale dealer, agent, retailer or any other person or entity in violation at least twenty-five (25) days written notice of his intention to hold a hearing on this matter. Service shall be by certified mail, return receipt, or by personal service.
2. The hearing shall be conducted pursuant to the Department's Rules of Practice and Procedure before the Mississippi Insurance Department, Regulation 88-101.
3. When a hearing is to be held before the State Fire Marshal, the State Fire Marshal shall give written notice thereof to the manufacturer, wholesale dealer, agent, retailer or any other person or entity allegedly in violation. The notice shall set forth the reason for the hearing, the questions or issues to be decided by the State Fire Marshal at such hearing, and the time for and place where the hearing will be held. All such notices shall be mailed to all parties whose rights may be affected by such hearing by registered or certified mail, addressed to their last known address, or via personal service.
4. All parties whose rights may be affected at any hearing before the State Fire Marshal shall have the right to appear personally and by counsel, to cross-examine witnesses appearing against them, and to produce evidence and witnesses in their own behalf. The State Fire Marshal shall make and keep a record of each such hearing and shall provide a transcript thereof to any interested

party upon such party's written request and at the party's expense. The State Fire Marshal will provide a transcript to the requesting party AFTER receiving payment for the transcript. Testimony taken at all hearings shall be taken either stenographically or by machine.

5. If any party who is notified of a hearing as outlined herein fails to appear at such hearing, either in person or by counsel, the State Fire Marshal may make any decision and take any action he deems necessary or appropriate with respect to any issues or questions scheduled for the hearing. In accordance with the applicable Mississippi law and this Regulation, the defaulting party shall have no right to appeal such a decision of the State Fire Marshal.
6. All decisions of the State Fire Marshal with respect to the hearings provided for in this section shall be incorporated into orders of the State Fire Marshal. All such orders shall be made available during normal office hours for inspection by interested persons.
7. It shall be the duty of the sheriffs and constables of the counties of this state and of any employee of the State Fire Marshal, when so directed by the State Fire Marshal, to execute any summons, citation, or subpoena which the State Fire Marshal may cause to be issued and to make his return thereof to the State Fire Marshal. The sheriffs and constables so serving and returning same shall be paid for so doing the same fees provided for such services in circuit court. Any person who appears before the State Fire Marshal or a duly designated employee of his department in response to a summons, citation, or subpoena shall be paid the same witness fee and mileage allowance as witnesses in the circuit court. In case of failure or refusal on the part of any person to comply with any summons, citation, or subpoena issued and served as above authorized or in the case of the refusal of any person to testify or answer to any matter regarding which he may be lawfully interrogated or the refusal of any person to produce his record books and accounts relating to any matter regarding which he may be lawfully interrogated, the chancery court of any county of the State of Mississippi, or any chancellor of any such court in vacation, may, on application of the State Fire Marshal, issue an attachment for such person and compel him to comply with such summons, citation, or subpoena and to attend before the State Fire Marshal or his designated employee and to produce the documents specified in any subpoena duces tecum and give his testimony upon such matters as he may be lawfully required. Any such chancery court, or any chancellor of any such court in vacation, shall have the power to punish for contempt, as in case of disobedience of like process issued from or by any such chancery court, or by refusal to testify therein in response to such process, and such person shall be taxed with the costs of such proceedings.

8. No decision of the State Fire Marshal made as a result of a hearing under the provisions of this section shall become final with respect to any party affected and aggrieved by such decision until such party shall have exhausted or shall have had an opportunity to exhaust all of his remedies provided for by this section; provided, however, any such decision may be made final if the State Fire Marshal finds that failure to do so would be detrimental to the public interest or public welfare, but the finality of any such decision shall not prevent any party or parties affected and aggrieved thereby to appeal the same in accordance with the appellate procedure set forth in this section.
9. The following procedure shall govern in taking and perfecting appeals:
 - i. Any person who is a party to any hearing before the State Fire Marshal and who is aggrieved by any decision of the State Fire Marshal with respect to any hearing before him, unless prevented by the provisions of paragraph 5 of this section, shall have the right of appeal to the chancery court of the First Judicial District of Hinds County. If any such person is a nonresident of this state, he shall have the right of appeal to the chancery court of the first judicial district of Hinds County, Mississippi. All such appeals shall be taken and perfected within sixty (60) days from the date of the decision of the State Fire Marshal which is the subject of the appeal. The chancery court to which such appeal is taken may affirm such decision or reverse and remand the same to the State Fire Marshal for further proceedings as justice may require or dismiss such decision. All such appeals shall be taken and perfected, heard and determined, either in term time or in vacation, on the record, including a transcript of pleadings and evidence, both oral and documentary, heard and filed before the State Fire Marshal. In perfecting any appeal provided by herein, the provisions of law respecting notice to the reporter and allowance of bills of exceptions, now or hereafter in force, respecting appeals from the chancery court to the supreme court shall be applicable, provided, however, that the reporter shall transcribe his notes, taken stenographically or by machine, and file the record with the State Fire Marshal within thirty (30) days after approval of the appeal bond, unless, on application of the reporter, or of the appellant, an additional fifteen (15) days shall have been allowed by the State Fire Marshal to the reporter within which to transcribe his notes and file the transcript of the record with the State Fire Marshal.
 - ii. Upon the filing with the State Fire Marshal of a petition of appeal to the chancery court of the First Judicial District of Hinds County, it shall be the duty of the State Fire Marshal, as promptly as possible, and in any event within sixty (60) days after approval of the appeal bond, to file with the

clerk of said chancery court to which the appeal is taken, a copy of the petition for appeal and of the decision appealed from, and the original and one (1) copy of the transcript of the record of the proceedings and evidence before the State Fire Marshal. After the filing of said petition, the appeal shall be perfected by the filing of a bond in the penal sum of Five Hundred Dollars (\$500.00) with two (2) sureties or with a surety company qualified to do business in Mississippi as surety, conditioned to pay the costs of such appeal, said bond to be approved by the State Fire Marshal or by the clerk of the chancery court to which such appeal is taken.

10. Nothing in this Regulation shall prohibit informal disposition by settlement or consent order, *i.e.*, an order based upon an agreement in writing, between the parties in lieu of an administrative hearing.

Source: Miss. Code Ann. §45-12-11 (Supp. 2012)

Rule ~~411~~.09: Implementation

- C. The State Fire Marshal may promulgate rules and regulations, pursuant to Section 25-43-1 et seq., necessary to effectuate the purposes of this chapter.
- D. The commissioner in the regular course of conducting inspections of wholesale dealers, agents and retail dealers, as authorized under Section 27-69-1 et seq., may inspect such cigarettes to determine if the cigarettes are marked as required by Section 45-12-9. If the cigarettes are not marked as required, the commissioner shall notify the State Fire Marshal.

Source: Miss. Code Ann. §45-12-13 (Supp. 2012)

Rule ~~411~~.10: Inspection

To enforce the provisions of this chapter, the Attorney General, the commissioner and the State Fire Marshal, their duly authorized representatives and other law enforcement personnel, are hereby authorized to examine the books, papers, invoices and other records of any person in possession, control or occupancy of any premises where cigarettes are placed, stored, sold or offered for sale, as well as the stock of cigarettes on the premises. Every person in the possession, control or occupancy of any premises where cigarettes are placed, sold or offered for sale, is hereby directed and required to give the Attorney General, the commissioner and the

State Fire Marshal, their duly authorized representatives and other law enforcement personnel, the means, facilities and opportunity for the examinations authorized by section 45-12-15 of the Mississippi Code.

Source: Miss. Code Ann. §45-12-15 (Supp. 2012)

| **Rule ~~111~~.11:** Cigarette Fire Safety Standard and Firefighter Protection Fund

There is hereby established in the State Treasury a special fund to be known as the "Cigarette Fire Safety Standard and Firefighter Protection Fund." The fund shall consist of all certification fees paid under Section 45-12-7 and all monies recovered as penalties under Section 45-12-11. The monies shall be deposited to the credit of the fund and shall, in addition to any other monies made available for such purpose, be used by the State Fire Marshal to defray costs incurred by the State Fire Marshal in fulfilling his duties under this chapter, and to support fire safety and prevention programs.

Source: Miss. Code Ann. §45-12-17 (Supp. 2012)

| **Rule ~~111~~.12:** Sale outside of Mississippi

Nothing in this section shall be construed to prohibit any person or entity from manufacturing or selling cigarettes that do not meet the requirements of Section 45-12-5 if the cigarettes are, or will be, stamped for sale in another state or are packaged for sale outside the United States and that person or entity has taken reasonable steps to ensure that such cigarettes will not be sold or offered for sale to persons located in this state.

Source: Miss. Code Ann. §45-12-19 (Supp. 2012)

| **Rule ~~111~~.13:** Preemption

This chapter shall be repealed if a federal reduced cigarette ignition propensity standard is adopted and becomes effective.

Source: Miss. Code Ann. §45-12-21 (Supp. 2012)

| **Rule ~~111~~.14:** Local regulation

Miss. Code Ann. §45-12-23 (Rev. 2012) preempts any local law, ordinance or regulation that conflicts with any provision of said chapter or any policy of the state implemented in accordance with said chapter and, notwithstanding any other provision of law, a governmental unit of this

state may not enact or enforce an ordinance, local law or regulation conflicting with or preempted by said chapter.

Source: Miss. Code Ann. §45-12-23 (Supp. 2012)

| **Rule 11.15 Effective Date**

This Regulation shall become effective thirty (30) days after adoption.

Source: Miss. Code Ann. §25-43-3.113, et seq. (Supp. 2012)